

**REMARKS**

I. **Summary of the Office Action**

Claims 1 and 10-39 were pending in the above-identified patent application. Claims 1, 10, 15, 16, 18-25, 29, 30, 33-35, 38, and 39 were rejected under 35 U. S. C. § 102(e) as being anticipated by Knee et al. U.S. Patent No. 5,589,892 ("Knee"). Claim 17 was rejected under 35 U. S. C. § 103(a) as being unpatentable over Knee. Finally, claims 11-13, 26-28, 31, 32, 36, and 37 were rejected under 35 U. S. C. § 103(a) as being unpatentable over Knee in view of West et al. U.S. Patent No. 5,550,575 ("West").\*

II. **Summary of Applicants' Reply**

Applicants have amended claims 1, 14, 17, 18, 20, 27, and 30-39 in order to more particularly define the claimed invention. Applicant has cancelled claim 29 without prejudice or disclaimer and have added new dependent claims 40-45. The amendments are fully supported by the specification as filed and do not add new matter.

The claim rejections are respectfully traversed.

III. **The Claim Rejections**

Claims 1, 10, 15, 16, 18-25, 29, 30, 33-35, 38, and 39 were rejected under 35 U.S.C. § 102(e) as being anticipated by Knee. Claim 17 was rejected under 35 U. S. C. § 103(a) as being unpatentable over Knee. Finally, claims 11-13, 26-28, 31, 32, 36, and 37 were rejected under 35 U. S. C. § 103(a) as being unpatentable over Knee in view of West. These rejections are respectfully traversed.

A. **Independent Claims 1, 27, and 31**

Each of amended independent claims 1, 27, and 31 is directed toward exercising access control over a television program. A password is input for entering into a master mode of operation. A blocking criterion is entered for blocking a television program from being accessed by a user in a first mode of operation different from the master mode. An unblocking criterion is

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\* Claim 14 is listed as rejected in the Office Summary. However, no discussion of claim 14 appears in the Detailed Action. For the purposes of this Reply, Applicants are treating this claim as rejected.

also entered for unblocking a blocked television program that meets the unblocking criterion in order to permit, without providing the password, access to the blocked program by a user in the first mode of operation. For a second mode of operation different from the master mode, one or more programs are selected for access by a user in the second mode of operation so that the user in the second mode is permitted to access, without providing the password, only the selected programs, to the exclusion of all other programs being telecast.

Knee describes, *inter alia*, a parental control system that includes a "Key Lock Access" option that allows a user to control access to individual channels and programs by requiring the user to enter a user-specified access code "key" before ordering or viewing programs, channels or events selected to be controlled under this option. (Knee, col. 22, ll. 30-35.) Knee also describes an alternative method for restricting access to programs using a "Lockout" screen. Using the Lockout screen, a user may limit or permit access to programs based on other criteria such program title, time of day, day of week, *etc.* (Knee, col. 24, ll. 25-35.) Knee fails to teach or suggest each and every element set forth in the claims.

First, as Applicants argued in their Response dated September 4, 2007 ("September Response"), Knee does not describe entering an unblocking criterion to unblock a blocked television program, as specified in claims 1, 27, and 31. In response to Applicants' arguments presented in their September Response, the Examiner contends that Knee describes this feature because Knee "provides a 'Key Lock Access' and various menu[s]/submenu[s]" to restrict or permit programs. (Office Action, page 2, ¶ 3.) The Examiner implies further that Knee's "lockout code" (Knee, col. 24, ll. 52-55) describes the claimed feature because "Once enabled, the lockout code must be used to set or modify locks, to view a previously locked program, or to clear or change the lockout code." (Office Action, page 2, ¶ 3.) Applicants disagree with both assertions.

Regarding the first assertion, the mere presence of "various menu[s]/submenu[s]" for allowing or restricting access to programs is insufficient to anticipate or suggest Applicants' specific feature, as amended, of allowing entry of a criterion that would unblock programs that are blocked by another user-entered criterion without requiring a password. Unlike claims 1, 27, and 31, each of the options in Knee's Key Access mode blocks a program unless a user enters the appropriate "key." *See, e.g.*, for Parental Guidance category: col. 23, ll. 19-36; MPAA rating category: col. 23, ll. 41-59; channel-specific restrictions: col. 24, ll. 14-21. Knee does not

describe entering unblocking criterion to override user-specified blocking criterion as specified in claims 1, 27, and 31. Moreover, contrary to the Examiner's contention, the "lockout code" in Knee is merely a password provided by a user to unlock locked programs. (See, e.g., Knee, col. 24, ll. 35-47 (stating that a lockout code is a multi-digit code set when the system is first installed)). In this regard, Knee's lockout code is akin to Applicants' password for enabling access to blocked programs for users not in the master mode. Knee does not teach, and the Examiner does not point to any reference that suggests, that a lockout code is "criterion" that would unblock programs that are blocked by a blocking criterion without requiring a password, as specified in claims 1, 27, and 31.

Second, Applicants have amended each of claims 1, 27, and 31 to recite selecting one or more television programs to be accessed in a second mode of operation, and permitting only the selected programs to be watched in the second mode to the exclusion of all other programs, if the user does not enter the password. Applicants' claimed approach provides various advantages over merely selecting which programs *may not* be accessed. In particular, as a practical matter, the former approach eliminates the burden on the parent or guardian to exhaustively identify and restrict all programs that may be unsuitable for viewers accessing programs in, for example, babysitting mode, and instead, requires only knowledge of programs that the parent or guardian deems appropriate for viewing by users in the second mode.

Neither Knee nor West teaches this subject matter. The Examiner rejected this subject matter, which was previously recited in claim 17, under § 103(a) as being obvious in view of Knee. In the obviousness rejection, the Examiner concedes that "Knee fails to explicitly teach selecting a set of TV programs to be watched or recorded" (Office Action, page 6, ¶ 5), but concludes that this feature would be obvious without providing any objective basis for this conclusion. As argued in Applicants' September Response, by asserting that a feature that is not disclosed in any cited reference is obvious, the Examiner has effectively taken Official Notice of the feature. Accordingly, Applicants respectfully traverse the Examiner's Official Notice.

According to the MPEP, the Examiner may only take Official Notice of facts outside of the record which are "capable of such instant and unquestionable demonstration as to defy dispute" (MPEP § 2144.03(A)). In the present instance, even assuming, *arguendo*, that selecting a set of programs which may be viewed in a particular mode of operation may now be well known, there is no objective basis to conclude that this concept was well known beyond dispute

as of Applicants' date of invention (Applicants' earliest provisional application was filed April 1, 1998). Therefore, Applicants traverse the Official Notice because it is at least disputable whether the noticed concept was well-known at the time of Applicants' invention. If the Examiner maintains the rejection, Applicants respectfully request that the Examiner provide a reference in support of the Official Notice (see MPEP §2144.03(C)) in the next Office Action.

For at least the foregoing reasons, Applicants respectfully submit that Knee does not teach each and every feature of amended independent claims 1, 27, and 31. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of these claims. Claims 10-26, 28-30, and 32 depend from claims 1, 27, and 31, and add further elements thereto. Applicants therefore request reconsideration and withdrawal of the rejections of these claims as well. New dependent claims 41-43 are also allowable for at least the same reasons.

B. Independent Claims 33, 34, 36, 38, and 39

Each of amended independent claims 33, 34, 36, 38, and 39 requires selecting one or more television programs for access by a user in a viewing mode different from the master mode and permitting only the selected programs to be accessed in the viewing mode without providing the password, to the exclusion of all other programs being telecast. As described above in Section III-A, Knee and West, taken individually or in combination, fail to teach or suggest this subject matter.

Applicants therefore respectfully request reconsideration and withdrawal of the rejection of amended independent claims 33, 34, 36, 38, and 39 for at least the reasons provided above. Claims 35, 37, and 40-43 depend from claims 3 independent claims 33, 34, 36, 38, and 39 and add further elements thereto. Applicants therefore request reconsideration and allowance of these claims as well.

IV. Conclusion

For at least the reasons discussed above, Applicants submit that this application is in condition for allowance. Prompt consideration and allowance are therefore respectfully requested.

We believe that we have appropriately provided for fees due in connection with this submission. However, if there are any other fees due in connection with the filing of this Response, please charge our Deposit Account No. 06-1075, under Order No. 004033-0080 Cont. US from which the undersigned is authorized to draw. A duplicate Amendment Transmittal is enclosed for this purpose.

Respectfully submitted,

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